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THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by the Amnesty International, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[4 February 1985]

Situation of human rights in East Timor

1. In August 1984, the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, in resolution 1984/24, recommended that the Commission on Human Rights study "the evolution of the situation of human rights and fundamental freedoms in East Timor". From reports available to Amnesty International and interviews conducted by Amnesty International staff, there appears to be little evidence of improvement in the human rights situation over the past year. The internationally recognized rights to freedom of expression, association, assembly and movement have continued to be denied. "Disappearances" have persisted. Amnesty International has continued to receive reports of torture inflicted on East Timorese detained in the custody of the Indonesian armed forces. Despite Indonesian claims to the contrary, the International Committee of the Red Cross (ICRC) does not have full and regular access to detention centres outside Dili. Reports of summary executions of non-combatants in East Timor continue to reach Amnesty International.

Limitations on access

2. The Indonesian Government has placed stringent restrictions on access to East Timor by international observers. It has also attempted to impose an embargo on information coming out of East Timor. East Timorese leaving to join relatives abroad are understood to have been warned routinely not to reveal anything that would discredit the Indonesian occupation and have been threatened with reprisals against family members still in East Timor if they do so. In view of the frequent resolutions passed by bodies of the United Nations which have urged that humanitarian

organizations have unrestricted access to East Timor, Amnesty International notes with regret that ICRC visits to prisons in Los Palos, Viqueque and Baucau in late 1984 have not yet led to any ongoing programme in detention centres outside Dili.

3. Regular access to all prisons by ICRC might improve the welfare of prisoners; it would not be able to ensure the end of widespread human rights violations or even the provision of information to the concerned public. For this reason, Amnesty International believes that the Government of Indonesia should be urged to grant outside observers every possible co-operation in assessing the state of human rights in East Timor.

Fair and open trials

4. Another internationally recognized right violated by the Indonesian authorities in East Timor is the right to a fair and public hearing by an independent and impartial tribunal. In December 1983, the Indonesian Government began a new policy of bringing detainees in East Timor to trial in Dili. As of the end of 1984, 79 out of a total of some 200 to be prosecuted had been tried.

5. With regard to these trials, the Indonesian representative to the Special Committee on Decolonization stated that they were in civilian courts, open to the public, and in accordance with Indonesian civil and criminal procedural law. He said that each prisoner was entitled to legal counsel and translators or interpreters as necessary, and that the record would show that the court had handed down relatively light sentences.

6. Amnesty International believes that the openness and fairness of the trials has not been demonstrated. Although in theory open to the public, no local announcements are made and no local reporting of them takes place. Amnesty International sent a letter on 12 March 1984 to the Minister of Justice in Indonesia requesting permission to send an observer to the trials in order to monitor compliance with international legal standards. The request was turned down on the grounds that the trials were a matter of domestic jurisdiction. According to reports reaching Amnesty International, legal counsel was not available to all defendants, contrary to the Indonesian claim.

7. The sentences described by the Indonesian representative as "relatively light" range from six to 17 years in 22 of the 23 cases tried as of the end of March 1984. Some of those tried had already been in detention for many years, including Wenceslau do Carvalho, sentenced to seven years, who had been in detention since the Indonesian invasion in 1975. Once sentenced, many of the prisoners were moved from Dili to prisons in Jakarta or West Timor, rendering visits from family members virtually impossible. In some cases, according to Amnesty International sources, family members were not told where the prisoners were sent.

Detention and resettlement

8. Amnesty International has received reports of persons detained in Dili, Viqueque and Los Palos in the past year and is concerned that others may be detained in prisons elsewhere including in Indonesia proper. On the island of Atauro, where many East Timorese from the main island have been sent into exile or detention, the physical condition of the population has improved since 1982 when ICRC was permitted to provide food and medical care. Amnesty International is concerned that approximately 1,500 people remain in detention without charge on Atauro often on suspicion of being sympathetic to the Frente Revolucionária de Timor Leste Independente (FRETILIN) or of having relatives in the armed resistance.

Since 1982, Indonesian spokespersons have announced the release of Atauro detainees and have set dates for the closure of Atauro as a place of exile. The Indonesian Foreign Minister, Dr. Mochtar Kusumaatmadja, stated in October 1984 that 600 persons on Atauro who had been "displaced by fighting" had returned to their places of origin, and that all such persons would be returned to the main island by mid-1985.

9. It is reported that many persons sent back to the main island have not been allowed to return to their homes, but have instead been placed in "resettlement villages", sometimes near their place of origin, sometimes far away, where they continue to face severe restrictions on freedom of movement.

Torture

10. Amnesty International has received extensive evidence of the use of torture by Indonesian troops in East Timor. In July 1983, the organization received copies of manuals issued by the Indonesian commander for East Timor which, among other things, contained guidelines which appeared to condone the use of torture when other methods of getting information failed. Although Indonesian officials have repeatedly attempted to cast doubt on the authenticity of these documents, neither they nor anyone else has produced any facts that would indicate their falsity. While the Indonesian authorities have correctly stated that the Ministry of Defence and Security (HANKAM) never published the manuals, Amnesty International is not aware of any claims that the Ministry did. The manuals appear to have been written by officers of the Command for East Timor for local use.

11. Both Amnesty International staff and experts on Indonesia have examined the documents and are satisfied that they are genuine on the basis of the military terminology used, the nature of the charts and diagrams included, the format and style, the official stamps, and the detailed comprehension of military organizational structure and tactics.

12. Indonesian officials have argued against the authenticity of the manuals largely on the grounds that it would be "fantastic" that a manual prescribing the use of torture should have been issued. */ But the documents do not deal exclusively with torture. They are not "torture manuals" and Amnesty International has never referred to them as such.

13. There are nine manuals in all covering a wide range of strategic problems, such as the way to break up FRETILIN support networks, the system of security in towns and resettlement villages, the way to provide comprehensive guidance for villages, and procedures for the interrogation of captives. The reference to torture is contained in one subsection of the manual on interrogation methods.

14. Amnesty International's belief in the authenticity of these guidelines is reinforced by its receipt of firsthand evidence that torture has persistently been practised in East Timor. Amnesty International has continued to receive reports of detainees being tortured at several detention centres in Dili including:

A storehouse attached to the house formerly owned by Francisco Babo in the Rua Abilio Monteira in the Colmera District;

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*/ See statement by Dr. Mochtar Kusumaatmadja, "Indonesia denies Amnesty's charge of human rights abuses", Reuters, Jakarta, 25 October 1984.

A house formerly owned by João do Rosario dos Martires in the Rua Abilio Monteira;

A house on the Rua Alferes Duarto o Arbiru in the Farol District.

15. Some of those who were reported to have been held in these centres were later reported "disappeared" and some are feared dead.

16. The Indonesian statement to the United Nations Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples on 20 August 1984 (A/AC.109/PV.1260) noted that the use of torture and other forms of ill-treatment was contrary to the Indonesian State philosophy and to the basic values of the Indonesian people. It stated that the use of torture in interrogation was subject to disciplinary action and prosecution, and that the Indonesian Government had intensified efforts to prevent torture from occurring. Amnesty International has requested further information on any cases where disciplinary action was taken and on steps recently taken to prevent torture. Amnesty International has received no evidence that allegations of torture have been investigated.

Extrajudicial executions

17. Killings of civilians of East Timor by Indonesian forces have occurred since the Indonesian invasion in 1975. Following the breakdown of a cease-fire between Indonesian troops and FRETILIN forces in August 1983, Indonesian troops launched an offensive. Amnesty International subsequently received reports of the arbitrary killings of non-combatants associated with this offensive, including reports from mutually independent sources of a massacre in the village of Kraras, shortly after the start of the offensive, where as many as 200 people may have been killed. Of those who fled to the mountains to escape the killings, several were reported to have been captured and executed.

18. In March 1984, Amnesty International received reports of another massacre near the village of Hauba in the western part of East Timor where some 100 men were detained and subsequently killed by Indonesian troops.

19. Killings have been reported to have occurred near Ainaro in March 1984 and in Baucau in May 1984 of persons suspected of having had contact with FRETILIN or supplying FRETILIN forces with food.

20. Amnesty International is concerned that summary executions of civilians may be continuing, and regrets that the Indonesian Government has apparently taken no steps to carry out thorough investigations of alleged massacres in the past.

21. In view of the continuing evidence of extensive human rights violations in East Timor, Amnesty International views the forty-first session of the United Nations Commission on Human Rights as an important forum to discuss measures which might be taken to alleviate the situation.